

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Sarah Campbell and Justin Campbell, w/h
8643 Yale Place, Philadelphia, Pennsylvania 19136

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Brad S. Tabakin, Esquire/Richard A. Wolfe, Esquire (215) 525-1616
1000 Germantown Pike, B-3, Plymouth Meeting, PA 19462

DEFENDANTS

Monro Muffler Brake Inc. (see attached sheet)
200 Hollender Parkway, Rochester, New York 14615

County of Residence of First Listed Defendant Monroe
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER STATUTES | |
|---|---|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1332(a)(1); 28 U.S.C. 1391(a)(2)

Brief description of cause:
Motor Vehicle Accident

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

110,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE:

DOCKET NUMBER

DATE
11/30/2018

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

SARAH CAMPBELL and JUSTIN CAMPBELL, :
Wife and Husband :
8643 Yale Place :
Philadelphia, Pennsylvania 19136 :
Plaintiffs :

v. : NO:

MONRO MUFFLER BRAKE INC. :
200 Holleder Parkway :
Rochester, New York 14615 :
Defendant :

and : COMPLAINT AND
JURY DEMAND

IVAN M. RODRIGUEZ :
1924 South Olden Avenue :
Hamilton, New Jersey 08610 :
Defendant :

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Defendant :

CIVIL ACTION - COMPLAINT

THE PARTIES

1. Plaintiffs, Sarah Campbell and Justin Campbell, wife and husband, are adult individuals, citizens and residents of the Commonwealth of Pennsylvania and reside at 8643 Yale Place, Philadelphia, Pennsylvania 19136.

2. Defendant, Monro Muffler Brake Inc., is a New York corporation or other business entity authorized and transacting business in the State of New Jersey with its domicile and principal place of business located in the State of New York with its corporate offices located at 200 Holleder Parkway, Rochester, New York, 14615.

3. Defendant, Ivan M. Rodriguez, is an adult individual and is a citizen and resident of the State of New Jersey and resides at 1924 South Olden Avenue, Hamilton, New Jersey 08610.

JURISDICTION

4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. 1332(a)(1) in that "the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs, and is between citizens of different States".

VENUE

5. Venue over this action is appropriate in this matter pursuant to 28 U.S.C. 1391(a)(2), in the District of New Jersey in that: – it is where a substantial part of the events or omissions giving rise to the claim occurred.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

6. Plaintiffs aver and incorporate by reference all of the allegations of Paragraphs 1 through 5, inclusive, of this Complaint as though the same were fully set forth hereinafter.

7. On or about April 15, 2017, at approximately 12:45 P.M., Plaintiff, Sarah Campbell, was legally proceeding in her motor vehicle in a northerly direction on Main Street, Manalapan Township, Monmouth County, New Jersey, when suddenly and without warning, Defendant, Ivan M. Rodriguez, who was the operator of a motor vehicle, to wit, a 2005 Ford Pickup, New Jersey License Plate No: XC451L, owned by Defendant, Monro Muffler Brake Inc., so negligently and carelessly struck Plaintiff, Sarah Campbell, vehicle in the rear causing the Plaintiff, Sarah Campbell, to sustain severe and permanent injuries and other losses

hereinafter more fully set forth herein.

8. The injuries resulted solely from the negligence and carelessness of the Defendants, Ivan M. Rodriguez and Monro Muffler Brake Inc., and was due, in no manner whatsoever, to any act or failure to act on the part of the Plaintiff, Sarah Campbell.

9. The aforesaid accident was caused solely by reason of the negligence and carelessness of the Defendants, Ivan M. Rodriguez and Monro Muffler Brake Inc., and in addition to the aforementioned, consisted of the following:

- a. Operating a motor vehicle at a high and excessive rate of speed under the circumstances;
- b. Failing to have a motor vehicle under proper and adequate control;
- c. Failing to use the highest degree of skill in the operation of a motor vehicle;
- d. Failing to keep a proper lookout for other vehicles upon the highway;
- e. Failing to exercise due care and caution under the circumstances;
- f. Violating the Ordinances of the Township of Manalapan, County of Monmouth, State of New Jersey;
- g. Violating the Assured Clear Distance Rule;
- h. Failure to yield the right of way to the Plaintiff's vehicle;
- i. Negligence at law;
- j. Defendant, Monro Muffler Brake Inc., failed to investigate, ascertain and/or certify the credential of Defendant, Ivan M. Rodriguez, the operator of the motor vehicle;
- k. Defendant, Monro Muffler Brake Inc., negligently entrusted his vehicle to the care and control of Defendant, Ivan M. Rodriguez, when he knew or should have known that such entrustment may result in injury to another driver;
- l. Defendant, Monro Muffler Brake Inc., failed to investigate, ascertain and/or verify the credentials of Ivan M. Rodriguez, the operator of his motor vehicle.;
- m. Defendant, Monro Muffler Brake Inc., negligently entrusted the operation of

said vehicle to Defendant, Ivan M. Rodriguez, when he knew, or had reason to know, that such entrustment may result in injury to other motorists;

n. Violation of the statutes and ordinances of the State of New Jersey regarding the safe operation of a motor vehicle; and

o. Such other acts or failures to act as shall be revealed through the course of discovery.

10. As a result of the aforesaid negligence and carelessness of the Defendants, Ivan M. Rodriguez and Monro Muffler Brake Inc., the Plaintiff, Sarah Campbell, was caused to sustain severe and permanent injuries requiring medical treatment, to the bones, joints, muscles, tendons, blood vessels, and soft tissues throughout her entire body, including, but not limited to her neck, back, bilateral shoulders, bilateral hips, annular tear an disc bulge at L3-4, L4-5 and L5-S1, L5 radiculopathy on right, disc bulging at C4-5 through C6-7, and was caused immeasurable pain and suffering, was prevented from pursuing her usual activities, has permanent disabilities that will affect Plaintiff herein, and may have caused her to sustain other diverse losses and to incur such expenditures for an indefinite period of time in the future, to her great detriment and loss, which currently equals or exceeds \$17,909.64 and may continue to increase.

11. As a further result of the negligence and carelessness of the Defendants, Ivan M. Rodriguez and Monro Muffler Brake Inc., Plaintiff, Sarah Campbell, has and will be obliged to receive and undergo medical attention and care and to expend various sums of money and to incur various expenses, and she may be obliged to continue to expend such sums and to incur such expenditures for an indefinite period of time in the future, all to Plaintiff's great detriment and loss.

12. As a further result of the negligence and carelessness of the Defendants, Ivan M. Rodriguez and Monro Muffler Brake Inc., Plaintiff, Sarah Campbell, has been caused to suffer agonizing aches, severe physical pains, disability, mental anguish and humiliation and will continue

to suffer same for an indefinite time in the future, all to Plaintiff's great detriment and loss.

13. As a result of the negligence and carelessness of the Defendants, Ivan M. Rodriguez and Monro Muffler Brake Inc., Plaintiff, Sarah Campbell, has been caused to suffer a loss of earnings and earning capacity or may suffer a loss of earnings and earning capacity and impairment of earning capacity and power, and may continue to incur same in the future.

14. Solely as a result of the aforesaid negligence and carelessness of the Defendants herein, Justin Campbell, as spouse of Plaintiff, Sarah Campbell, has been deprived of the society, companionship, aid, assistance, earnings and earning power and consortium of said spouse, all of which has, and may, in the future, continue to cause great emotional financial loss and damage.

WHEREFORE, Plaintiffs, Sarah Campbell and Justin Campbell, demand compensatory damages against Defendants, Ivan M. Rodriguez and Monro Muffler Brake Inc., for the common law tort of negligence, in an amount in excess of Seventy-Five Thousand (\$75,000.00) Dollars, plus interest, costs of suit and attorney's fees.

JURY DEMAND

Plaintiffs demand a jury trial.

TABAKINWOLFE LLP

BY: 

BRAD S. TABAKIN, ESQUIRE
Attorney for Plaintiff
Identification No: 65649
E-mail: brad@twlegal.net

BY: 

RICHARD A. WOLFE, ESQUIRE

Attorney for Plaintiff
Identification No: 78944

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